

REMARKS

Reconsideration of the application is requested. All claims previously in the application (Claims 1-18) have been cancelled in favor of new claims 19 to 25, which were drawn bearing in mind the disclosure of the specification. All the new claims are fully supported by the specification and recite the invention which the applicant clearly had in mind at the time of presenting the application. The new claims have taken into account the requirements of 35 USC § 112, first and second paragraphs, and fully comply with these requirements.

The invention, as claimed, concerns a method of treating extreme physical stress in a human. The method comprises the steps of treating a human, who has exercised to near physical functional capacity, and thereby is experiencing extreme physical stress, by having the human consume at least 50 mg of L-theanine. The fact of extreme physical stress is evidenced by raised serum prolactin levels in the human. Following consumption by the human of the L-theanine, the extremely physically stressed human is rested for a period of 30 minutes. During this relatively short of 30 minutes the peripheral controls of the human, including the raised serum prolactin levels are reduced, and are increasingly coupled to the human central nervous controls including neurotransmitters, dopamine, epinephrine, norepinephrine and serotonin, which are substantially unaffected. In this manner, the complete recovery of the human is greatly accelerated from being extremely physically stressed to complete regeneration, as proven by the evidence submitted herewith in the form of a Rule 132 declaration with attached Exhibit detailing testing and clinical results (discussed below).

In the Office action, the Examiner rejected claims 1 and 3-18 as being unpatentable over Juneja et al., "L-theanine—a unique amino acid of green tea and its relaxation effect in humans," Trends in Food Science & Technology (hereinafter "Juneja Article"). The Juneja Article teaches ingesting a 200 mg dosage of L-theanine to promote relaxation as measured by the generation of α brain waves in humans. The Juneja Article on page 201 shows that an injection of L-theanine can relax a spontaneously hypertensive rat (SHR).

Also cited were Kanamichi et al., JP 07-184923, which shows consuming L-theanine to improve learning efficiency; Wataru et al. '442, which teaches a method for mitigating mental and physical diseases due to stress by ingesting L-theanine; and Fischer et al. EP 1 275 309, cited for stress relaxation, as a cure for insomnia. All of these references are concerned with alleviation of stress of a mental nature, such as anxiety, to induce relaxation and

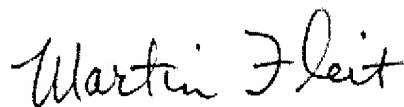
enhance learning, dealing with disease, or as a cure for insomnia. All of these references deal with mental stress, all take more that about 2 hours for the mental stress to be alleviated, and none of them disclose or teach the applicability of L-theanine as a treatment for extreme physical stress cause by exercise to near physical functional capacity in order to obtain complete regeneration and restore the individual to a normal unstressed physical condition in 30 minutes.

Submitted herewith is string evidence proving the novelty, utility, efficacy and unexpected results of the present invention as now claimed. As noted above, the evidence is in the form of a declaration under Rule 132 with a lengthy exhibit, see Attachment, that details clinical evidence of the efficacy of the claimed method, and fully supports the description in the specification. The declaration proves that the applicants not only had the claimed invention (fully described in the specification) in their possession at the time of filing the application, but that the inventors had made an actual reduction to practice showing that the claimed invention was operative for the purposed intended. The declaration and supporting exhibit are strong evidence of the patentability of the claimed method.

In light of the foregoing remarks, this application should be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time, time sufficient, to effect a timely response, and shortages in this or other fees, be charged, or any overpayment in fees be credited, to the Deposit Account of the undersigned, Account No. 500601 (Docket no. 7390-X03-020).

Respectfully submitted,

A handwritten signature in cursive script that reads "Martin Fleit".

Martin Fleit, Reg. #16,900

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